

STATE OF NEW HAMPSHIRE
WATER COUNCIL

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JUL 18 2005

Docket No. 03-10-WC

Appeal of the Conservation Law Foundation
In Re: Water Quality Certificate No. 2003-001

CONSERVATION LAW FOUNDATION'S WITNESS AND EXHIBIT LISTS

NOW COMES the Conservation Law Foundation (CLF) and respectfully submits the following Witness and Exhibit Lists in accordance with the Water Council's June 15, 2005 Appeal Hearing Notice:

Witnesses:

1. Laura Deming, N.H. Audubon
2. Paul Currier, NH Department of Environmental Services (DES)
3. Paul Piszczek, DES
4. Ridgley Mauck, DES
5. Greg Comstock, DES
6. David Burdick, UNH Jackson Estuarine Laboratory
7. CLF reserves the right to call any witnesses identified in the witness lists

submitted by DES and the applicant.

8. CLF reserves the right to supplement this witness list in light of discovery and RSA 91-A requests pending with DES.

Exhibits:

1. Report of Laura Deming, N.H. Audubon, re: May 2005 site visit.
2. Photographs from May 2005 site visit of Laura Deming.

3. Affidavit and November 14, 2003 Report of David Burdick, Jackson Estuarine Laboratory.
4. Best Management Practices to Control Nonpoint Source Pollution, A Guide for Citizens and Town Officials (Jan. 2004), NHDES.
5. Plan of proposed Falls Way subdivision.
6. Buffers for Wetlands and Surface Waters, A Guidebook for New Hampshire Municipalities (Nov. 1995, Revised May 1997).
7. January 3, 2003 letter from Steve Miller, Great Bay National Estuarine Research Reserve, to Dori Wiggin, NH DES.
8. April 3, 2003 letter from Steve Miller, Great Bay National Estuarine Research Reserve, to Dori Wiggin, NH DES.
9. Environmental Fact Sheet #NHDES-WRD-1996-6, Atlantic White Cedar Communities.
10. Handwritten "Falls Way Subdivision Notes" dated June 20, 2003.
11. NH DES Watershed Bureau Administrative Record Re: 401 Certificate #2003-001, including but not limited to the following excerpts:
 - 401 Certificate #2003-001;
 - July 17, 2003 letter from NH DES to CLF;
 - July 10, 2003 letter from Grace Bottitta to Tom Irwin;
 - July 11, 2003 letter from William Ingham, New Hampshire Fish and Game Department, to Adele Fiorillo, NH Soil Consultants;
 - June 20, 2003 letter from CLF to NH DES Watershed Management Bureau;

- April 7, 2003 letter from Laura Deming, New Hampshire Audubon Society, to Dori Wiggin, NH DES;
- September 17, 1999 Decision letter from NH DES to David DesFosses regarding Great Bog, Portsmouth, New Hampshire;
- “Bonding with Blanding’s,” New Hampshire Fish and Game Department Wildlife Journal (May/June, 2000);
- April 7, 2003 letter from Frederick T. Short, Ph.D., University of New Hampshire, to Thomas F. Irwin, CLF;
- May 14, 2003 letter from Carl DeLoi, United States Environmental Protection Agency, to Christine Godfrey, U.S. Army Corps of Engineers;
- April 5, 2003 letter from David Carroll to Tom Irwin;
- April 2, 2003 letter from Grace Bottitta to Tom Irwin;
- March 19, 2003 Decision letter from NH DES to Endicott General Partnership regarding NH DES File #2002-1268;

12. CLF reserves the right to supplement the above exhibit list with additional evidence obtained through discovery and RSA 91-A requests currently pending with the Department.

13. CLF reserves the right to admit into evidence any exhibit identified in the Exhibit Lists of the Department and applicant.

Respectfully submitted,

Conservation Law Foundation

COPY
By: Thomas F. Irwin
Thomas F. Irwin, Esq.
27 North Main Street
Concord, NH 03301
(603) 225-3060

Date: July 18, 2005

CERTIFICATE OF SERVICE

A copy of this pleading has this day been forwarded via U.S. Mail to Jennifer J. Patterson, Esq., and Malcolm R. McNeill, Jr., Esq.

COPY
Thomas F. Irwin
Thomas F. Irwin